

UNITED STATES DISTRICT COURT

OCT 25 2004

District of

Idaho

REC'D

FILED

UNITED STATES OF AMERICA

JUDGMENT IN A CRIMINAL CASE

CAMERON S. BURKE
CLERK IDAHO

V.

JUAN DELGADO-DELGADO

Case Number: Cr. 04-046-001-S-EJL

USM Number: 12124-023

Ms. Doreen Guenther

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One and Two of the Superseding Information

☐ pleaded nolo contendere to count(s)

which was accepted by the court.

☐ was found guilty on count(s)

after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 USC 922(g)(3)	Unlawful User of Controlled Substance in Possession of a Firearm	01.28.04	1
18 USC 924(d) and 28 USC 2461(c)	Criminal Forfeiture	01.28.04	2

The defendant is sentenced as provided in pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s)

☒ Indictment ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

October 25, 2004

Date of Imposition of Judgment

Signature of Judge

Edward J. Lodge, United States District Judge

Name and Title of Judge

October 25, 2004

Date

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DEFENDANT: Juan Delgado-Delgado
CASE NUMBER: Cr. 04-046-001-S-EJL

IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of: 18 months on Count 1. Defendant to forfeit all firearms and ammunition to the government on Count 2, in accordance with the Preliminary Order for Forfeiture signed October 25, 2004, copy attached.

☐ The court makes the following recommendations to the Bureau of Prisons:

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant shall surrender to the designated institution or to the United States Marshal for this district:

☐ at _____ ☐ a.m. ☐ p.m. on _____.

☐ as notified by the United States Marshal.

The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____.

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____

a _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
DEPUTY UNITED STATES MARSHAL

DEFENDANT: Juan Delgado-Delgado
CASE NUMBER: Cr. 04-046-001-S-EJL

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of : 3 years.

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.

The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)

☐ The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court; and
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

DEFENDANT: Juan Delgado-Delgado
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SPECIAL CONDITIONS OF SUPERVISION

The defendant shall comply with the rules and regulations of the Probation Department.

The defendant shall participate in a program of drug/alcohol aftercare, which may include urine testing in accordance with 18 USC 3583(d), as directed by the probation officer. Cost of the treatment and testing to be paid by the defendant and the government based upon the defendant's ability to pay.

The defendant shall comply with the rules and regulations of the Bureau of Immigration and Customs Enforcement, and if deported from this country, either voluntarily or involuntarily, shall not reenter the United States without permission from the Secretary of the Department of Homeland Security.

Within 72 hours of release from any custody or any re-entry into the United States during the term of Court ordered supervision, the defendant shall report in person to the probation office in the district to which the defendant was released or allowed to re-enter.

The defendant shall submit to a search of his home, vehicle, and/or person upon demand of the probation officer, without necessity of a warrant.

The defendant shall perform 40 hours of community service as directed by the probation officer in lieu of a fine.

DEFENDANT: Juan Delgado-Delgado
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CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
TOTALS	\$ 100.00	\$	\$

☐ The determination of restitution is deferred until _____. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.

☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
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TOTALS	\$ _____	\$ _____
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☐ Restitution amount ordered pursuant to plea agreement \$ _____

☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).

☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:

☐ the interest requirement is waived for the ☐ fine ☐ restitution.

☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties are due as follows:

- A ☐ Lump sum payment of \$ _____ due immediately, balance due
- ☐ not later than _____, or
☐ in accordance ☐ C, ☐ D, ☐ E, or ☐ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., weekly, monthly, quarterly) installments of \$ _____ over a period of _____ (e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:
Special Assessment due immediately.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the Clerk of the Court and mailed to Clerk of the Court, District of Idaho, 550 W. Fort St., MSC 039, Boise, ID 83724.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

- ☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

- ☐ The defendant shall pay the cost of prosecution.
- ☐ The defendant shall pay the following court cost(s):
- X The defendant shall forfeit the defendant's interest in the following property to the United States:
All firearms and ammunition in accordance with the Preliminary Order of Forfeiture signed October 25, 2004, copy attached.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

ESL

U. S. COURTS

OCT 25 2004

REC'D _____ FILED _____
CAMERON S. BURKE
CLERK IDAHO



IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF IDAHO

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUAN DELGADO-DELGADO,

Defendant.

Cr. No. 04-046-S-EJL

PRELIMINARY
ORDER FOR FORFEITURE

This matter having come before the Court upon Plaintiff's Motion for Preliminary Order of Forfeiture, and based upon the record and filings herein, the Court makes the following findings and order:

A Plea Agreement was entered into between Juan Delgado-Delgado and the United States of America on July 6, 2004, by which the defendant pled guilty to violations of 18 U.S.C. §§ 922(g)(3). Said Plea provides for forfeiture of any and all interests the defendant possessed in the following property pursuant to 18 U.S.C. § 924(d) and made applicable pursuant to 28 U.S.C. § 2461(c):

Firearms and Ammunition to include:

1. Chinese semi-automatic SKS 7.62 mm rifle, s/n 20049788, with a 30-round detachable magazine, an after market muzzle flash suppressor, a ram line pistol grip stock and a bayonet;
2. 1929 "Mauser style" Spanish-made 7 mm bolt-action rifle, s/n U7711; and
3. Savage Arms bolt-action .22 rifle with the serial number filed off.

Based on the file herein, including the Plea Agreement, and the factual basis set out therein, for
PRELIMINARY ORDER OF FORFEITURE - 1

Doc # 21

1 the reasons stated at bar, and pursuant to the Plaintiff's Motion for Preliminary Order of Forfeiture:

2 THE COURT FINDS that the above-described property was property which was involved in a
3 violation of 18 U.S.C. § 922(g)(3).

4 Upon entry of this Order, the United States Attorney General (or a designee); is authorized to
5 seize the above-listed property, and to conduct any discovery proper in identifying, locating or disposing
6 of the property subject to forfeiture, in accordance with Fed R. Crim P. 32.2(b)(3).

7 Upon entry of this Order, the United States Attorney General (or a designee); is authorized to
8 commence any applicable proceeding to comply with statutes governing third party rights, including
9 giving notice of this Order.

10 The United States shall publish a one-time notice of the order and its intent to dispose of the
11 property in such a manner as the United States Attorney General (or a designee) may direct. The United
12 States may also, to the extent practicable, provide written notice to any person known to have an alleged
13 interest in the Subject Property.

14 Any person, other than the above-named defendant, asserting a legal interest in the Subject
15 Property may, within thirty days of the publication of notice or receipt of notice, whichever is earlier,
16 petition the court for a hearing without a jury to adjudicate the validity of his alleged interest in the
17 Subject Property, and for an amendment of the order of forfeiture, pursuant to 21 U.S.C. § 853(n)(6).

18 Any petition filed by a third party asserting an interest in the Subject Property shall be signed
19 by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right,
20 title, or interest in the Subject Property, the time and circumstances of the petitioner's acquisition of the
21 right, title or interest in the Subject Property, any additional facts supporting the petitioner's claim and
22 the relief sought.

23 After the disposition of any motion filed under Fed. R. Crim. P. 32.2(c)(1)(A) and before a
24 hearing on the petition, discovery may be conducted in accordance with the Federal Rules of Civil
25 Procedure upon a showing that such discovery is necessary or desirable to resolve factual issues.

26 The United States shall have clear title to the Subject Property following the Court's disposition
27 of all third-party interests, or, if none, following the expiration of the period provided in pursuant to 21

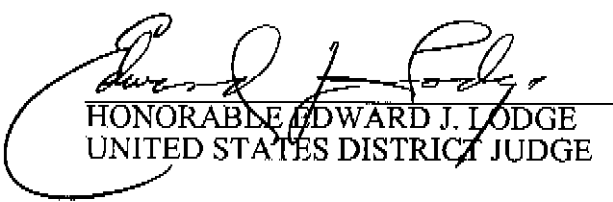
28 PRELIMINARY ORDER OF FORFEITURE - 2

1 U.S.C. § 853(n)(2), for the filing of third party petitions.

2 This Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant
3 to Fed. R. Crim. P. 32.2(e).

4 The Clerk of the Court shall forward a certified copy of this Order to Assistant U.S. Attorney
5 Anthony G. Hall, U.S. Attorney's Office, MK Plaza, Plaza IV, 800 Park Blvd., Suite 600, Boise, ID
6 83712.

7 DATED this 25th day of October, 2004.

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11 HONORABLE EDWARD J. LODGE
12 UNITED STATES DISTRICT JUDGE
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